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**MAINE PROSECUTORS ASSOCIATION**  
**ADA TANYA PIERSON, JUVENILE PROSECUTOR**

**LD 1849**

**“An Act to Establish a Minimum Age at Which a Juvenile May Be  
Adjudicated”**

**Testimony in Support**

Senator Anne Beebe-Center, Chair

Representative Tavis Hasenfus, Chair

Members of the Joint Standing Committee on Criminal Justice and Public Safety

My name is Tanya Pierson, I am an Assistant District Attorney for York County Maine. I have spent the majority of my 35-year career helping to create and administer a juvenile docket in York County. I am submitting this testimony on behalf of the Maine Prosecutors Association, in support of LD 1849.

Broadly speaking, LD 1849 accomplishes two extremely important and long overdue changes to Maine’s juvenile code.

- I. LD 1849 would establish a minimum age under which a juvenile could be charged, except for murder, felony murder or manslaughter and criminal attempt of any of these crimes.
- II. LD 1849 would bring any criminal offense under Maine law into the jurisdiction of the Juvenile Court.

## **I. Establishment of a minimum age**

Multiple States have set a minimum age for criminal charges to be filed against a juvenile. To date, the majority of States have passed minimum age statutes for charging juvenile offenses. Minimum ages vary from age 7 (Florida) to age 13, with and without exceptions for certain offenses. The majority of states that have passed age restrictions have used age 10, *with no “carve-outs” for certain offenses*; established minimum ages and exceptions have been individualized state by state. This is our opportunity to fashion a statute that reflects Maine’s values and concerns and to craft a minimum age statute that is unique to the state of Maine.

This committee has been provided with the data and research that outlines the impact of the court process on youth, particularly our younger and most vulnerable children. These studies clearly document the long-term impact of involvement with the criminal justice system for our youngest offenders, even when handled through a juvenile court process.

In short, we know that there are significant developmentally differences with youth who are younger than age 14, even in comparison to youth age 16 and above, which leaves these younger children far less able to understand court proceedings, to fully understand what is happening in court or to participate in their defense in a meaningful way, as anticipated under Maine’s juvenile competency laws. Under the Maine Juvenile Code, if the issue of competency is raised, *the State* has the burden of proving a juvenile under the age of 14 is competent.

Additionally, we know the research on young offenders substantiates increased behavioral and mental health issues, decreased school engagement and increased likelihood of recidivism for youth who are referred to the court system vs. receiving support and services in their communities. Arguably this approach saves money down the road as community-based services are far cheaper than any type of residential care, including Long Creek, regardless of the moral ramifications.

It is precisely because of this research and our increased knowledge of the long-term effect of system and court involvement that the majority of states have passed minimum age laws. This is best practice, as detailed in multiple studies that confirm, in general, better outcomes are achieved by addressing these youth, and their families, through the systems *designed* to provide the appropriate support and treatment services.

Recognizing the grave concern that we do not want these younger offenders to “fall through the cracks” if the State is unable to proceed with juvenile charges against

children aged 10 and below, I would submit that most, if not all, youth under the age of 11 are already being diverted by the Department of Corrections and juvenile prosecutors or found not competent by our juvenile courts and their cases are being referred to the Department of Health and Human Services (DHHS) as outlined in existing law.

We have primarily two governmental entities in Maine who are mandated to address youth who commit criminal offenses – for those who are competent, we have the juvenile court system. For the children who are young and struggle with behavioral health issues or who have families who struggle with adequate supervision and support, for whatever reason, and for youth who are found not competent by the juvenile court, we have DHHS. I would submit to this committee that for our youngest offenders who commit offenses that do not result in the death of another human being, DHHS is the appropriate system to address whatever is going on with that youth and family system. This is where we need to turn our focus, to ensure we do not fail to keep in sight these younger children who commit lower-level offenses but have high individual or family needs. The juvenile justice system is designed to address youth who are first and foremost competent, within the legal definition of competency.

## **II. Confer jurisdiction to the Maine juvenile courts any criminal offense under Maine law committed by a juvenile.**

Currently there are multiple criminal offenses under Title 29-A and Title 12 in which a juvenile is charged as an adult. With the exception of felony motor vehicle offenses and OUIs, anyone charged with a criminal motor vehicle violation is charged as an adult, regardless of their age. Likewise, under Title 12, except for hunting or operating a watercraft, snowmobile or ATV while under the influence, or failure to aid an injured person or report a hunting accident, every criminal Title 12 offense is charged as an adult crime, regardless of the age of the alleged offender.

I am relatively confident we can all agree it is unsuitable and inappropriate to have juveniles, adolescents and children charged criminally, as an adult, appearing in court with adults. No person under 18 should be appearing in a courtroom with adults charged with a wide variety of criminal offenses that range from Class E offenses to Class A crimes. It is time for Maine to handle any case where someone under the age of 18 is charged with a crime in juvenile court.

What will be the overall impact on the criminal justice system if this bill is passed?

Obviously, the caseload in adult criminal courts will be reduced, while the juvenile clerks will likely see a slight increase. These cases will be shifted from adult court to juvenile court and handled by prosecutors who handle juvenile cases. Currently if there are companion juvenile and adult cases that arise out of a single incident, juvenile prosecutors do their best to handle both types of offenses on the juvenile docket. But this requires additional ministerial work for everyone – prosecutors, defense attorneys and clerks.

Because of this disconnect between the Title 29-A and Title 12 juvenile and adult criminal cases, there is often confusion over precisely which cases are handled in juvenile court and which cases are handled through adult court; juveniles are regularly improperly summonsed to appear in the wrong court. District Attorneys' Offices, the clerks and JCCOs field many inquiries over this.

Most significantly, if all criminal cases are transferred to the jurisdiction of the juvenile court, they will first go through a Juvenile Community Corrections Officer, who has the authority to divert a case from court, particularly the lower level, low impact, non-victim, often first-time offenses which are the types of offenses under Titles 29-A and 12 we are talking about.

Which leads us to where the greatest impact from transferring all criminal cases is likely to land – with the Department of Corrections, Juvenile Services. We know there will be an overall reduction in the number of cases heard by the Courts, period. Clearly JCCOs will see an increase in their caseloads if we transfer all criminal offenses to the jurisdiction of the juvenile court. The difficulty is that we simply do not have accurate data to know precisely how many juveniles in Maine are charged annually with adult criminal offenses, an estimate is around 400 cases received by all the District Attorney Offices *statewide*. Anecdotally we know the numbers are not huge, furthermore these offenses tend to be more minor in nature, certainly compared to other juvenile crimes that are already handled in the juvenile system. Furthermore, a significant portion of these adult cases have companion juvenile charges for which a JCCO is already overseeing a youth.

Maine has been a leader nationally in its approach to juvenile justice. Both of these provisions will bring Maine into compliance with the broadly accepted juvenile best practices and continue to affirm our important focus on appropriately handling juvenile cases in the state of Maine.

Respectfully submitted,

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